

## Bureau of Indian Affairs, Interior

## § 112.7

(k) Make a specific recommendation for the approval or disapproval of the application.

### **§ 112.3 Applicants who are mentally or physically incapable of managing their affairs.**

Applications of this class must be accompanied by evidence that will establish the advisability of withdrawing the share. If the application is approved, the funds will be deposited to the credit of the Indian and handled as individual Indian money.

In forwarding applications the agent will report fully as follows:

- (a) Sex and exact date of birth.
- (b) Identify the applicant by allotment and last annuity-roll numbers.
- (c) What is the actual physical condition of the applicant. If suffering from disease, submit certificate of physician if necessary to establish disability.
- (d) What is the actual mental condition of the applicant? Answer fully.
- (e) What are the material resources of the applicant?
- (f) What advantages will accrue to applicant by withdrawal of his or her share at this time?
- (g) Has it been explained to the applicant and does he understand that if the application is approved the funds will be deposited to his credit as individual Indian money to be expended under the supervision of the superintendent?
- (h) Make a specific recommendation for the approval or disapproval of the application.

CROSS REFERENCE: For individual Indian money regulations, see part 115 of this chapter.

[22 FR 10549, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 48 FR 13414, Mar. 31, 1983]

### **§ 112.4 Interest in pro rata shares not vested rights unless application approved.**

On November 6, 1908, the Secretary of the Interior decided, in effect, that the interest of an Indian in a pro rata share of a tribal fund does not vest in the Indian an inheritable property until after his application has been approved by the Secretary and an order signed by him segregating it from the tribal fund. Applications for shares of funds under this act may be made at

any time, but in view of the Secretary's decision such applications should be forwarded to the Bureau by the superintendent as soon as they are completed and filed with him. Applications from those who are blind, decrepit, etc., must be made special and forwarded to the Bureau of Indian Affairs, Washington, D.C., as soon as possible.

### **§ 112.5 Basis of distribution; pro rata shares.**

In estimating the pro rata share of an individual, the last annuity payroll prior to July 1, or January 1 of each year will be taken as a basis of distribution. Where no payment has been made within 1 year, the last census, if taken within the year, will be the basis. If no census has been taken or payment made within a year, the last available record—either census or annuity roll will be used.

### **§ 112.6 Disposition of pro rata share in event of applicant's death.**

In the event of the death of an applicant prior to the approval of his application by the Secretary of the Interior, the share to which he would have been entitled, if living, will revert to the tribe. In case of the death of an applicant after approval of his application and the signing by the Secretary of the Interior of an order for the segregation of his share, but before payment is made, his share will descend to his legal heirs and should be deposited to the credit of the estate pending formal determination thereof.

CROSS REFERENCE: For regulations pertaining to the determinations of heirs and approval of wills, see part 15 and §§ 11.30 through 11.32C of this chapter.

### **§ 112.7 Pro rata shares of minors.**

The shares of minors will not be withdrawn except when necessary for their own benefit. The application should be signed by the parent or guardian and transmitted to the Bureau by the superintendent with his recommendation as in other cases and a full explanation of the circumstances which justify the withdrawal. Such shares will be deposited to the credit of the minors subject to expenditure